

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

Marc S. Malec,

Plaintiff,

Case No.: 14-11974

State Court Case No.: 14-1612-SC

v.

Merchants and Medical,

Defendant.

NOTICE OF REMOVAL

Defendant Merchants & Medical Credit Corporation (captioned as “Merchants and Medical”)(“Defendant”) hereby gives notice of removal of this action from the State of Michigan’s 53rd Judicial District Court to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. In support thereof, Defendant states as follows:

1. On or about April 17, 2014, Plaintiff Mark S. Malec (“Plaintiff”) filed the above captioned civil action in the State of Michigan’s 53rd Judicial District Court, Case No.: 14-1612-SC (the “State Court Action”).

2. Defendant was served with the Complaint on April 23, 2014. Accordingly, this Notice of Removal has been timely filed pursuant to 28 U.S.C. § 1446(b).

3. On May 1, 2014, Plaintiff removed the case from the small claims

division to the general civil division of the court.

4. The State Court Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be properly removed pursuant to 28 U.S.C. §§ 1441 and 1446, as the claims asserted in the Complaint arise under the laws of the United States and raise a federal question.

5. Plaintiff's complaint asserts violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

6. The district courts of the United States have original jurisdiction in civil actions arising under the FDCPA.

7. Defendant removes the State Court Action to the United States District Court for the Eastern District of Michigan because it is the venue that encompasses Howell, Michigan. Defendant removes this action without prejudice to Defendant's right to seek transfer of this action pursuant to 28 U.S.C. § 1404.

8. True and correct copies of the following documents are attached to this Notice of Removal:

- (a) all process, pleadings and orders which have been served upon Defendant in this action are attached in accordance with 28 U.S.C. § 1446(a) and this Court's ECF guidelines; and
- (b) the Notice of Filing of Notice of Removal which has been served upon Plaintiff and filed with the Clerk of the Court for State of Michigan 53rd Judicial District Court is attached as **Exhibit A** in accordance with 28 U.S.C. § 1446(d).

9. Based upon the foregoing, this action is properly removed on the basis

of federal question jurisdiction pursuant to 28 U.S.C. §§ 1331, 1441 and 1446.

WHEREFORE, Defendant Merchants & Medical Credit Corporation requests that this action proceed in the United States District Court for the Eastern District of Michigan.

Respectfully Submitted,

/s/ Charity A. Olson
Charity A. Olson (P68295)
Olson Law Group
Attorneys for Defendant
2723 S. State St., Suite 150
Ann Arbor, MI 48104
(734) 222-5179
colson@olsonlawpc.com

Dated: May 18, 2014

CERTIFICATE OF SERVICE

I, Charity A. Olson, hereby certify that on May 18, 2014, a copy of the foregoing Notice of Removal was filed via the Court's ECF system and served via postage pre-paid, first class mail upon the following:

State of Michigan
53rd Judicial District Court - Civil
204 S. Highlander Way
Howell, MI 48843

Marc S. Malec
6120 Mountain Laurel Dr.
Brighton, MI 48116

/s/ Charity A. Olson
Charity A. Olson

To order this form, call (517) 337-1211
Target Information Management, Inc.

Original (with instructions)
1st copy - Defendant (with instructions)
2nd copy - Plaintiff (with instructions)
3rd copy - Return (with proof of service)

Approved, SCAO

**STATE OF MICHIGAN
JUDICIAL DISTRICT**

**AFFIDAVIT AND CLAIM
Small Claims**

CASE NO.

Court address

204 S. HIGHLANDER WAY, HOWELL, MI 48843

517/540-7648

Court telephone no.

See instructions on the back of plaintiff and defendant copies.

1. Marc S. Malec
Plaintiff

Address

City, state, zip

Telephone no.

2. merchants and medical
Defendant

Address

City, state, zip

Telephone no.

NOTICE OF HEARING

For Court Use Only

The plaintiff and the defendant must be in court on

Day

Date

at

Time

Location

Process serv

the court address above.

Appear at: Howell District Court

204 S. Highlander Way, Howell

before the Magistrate

- ☐ 3. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in this complaint has been previously filed in _____ Court. The case number, if known, is _____.
The action ☐ remains ☐ is no longer pending.

4. I have knowledge or belief about all the facts stated in this affidavit and I am
☒ the plaintiff or his/her guardian, conservator, or next friend. ☐ a partner. ☐ a full-time employee of the plaintiff.

5. The plaintiff is ☒ an individual. ☐ a partnership. ☐ a corporation. ☐ a sole proprietor. ☐ Other _____

6. The defendant is ☐ an individual. ☐ a partnership. ☒ a corporation. ☐ a sole proprietor. ☐ Other _____

7. The date(s) the claim arose is/are 2013
Attach separate sheets if necessary

8. Amount of money claimed is \$ \$500.00. (NOTE: Plaintiff's costs are determined by the court and awarded as appropriate. They are not part of the amount claimed.)

9. The reasons for the claim are that I'm being harassed by debt collector

10. The plaintiff understands and accepts that the claim is limited to \$5,000 by law and that the plaintiff gives up the rights to (a) recover more than this limit, (b) an attorney, (c) a jury trial, and (d) appeal the judge's decision.

11. I believe the defendant ☒ is ☐ is not mentally competent. I believe the defendant ☐ is ☐ is not 18 years or older.

12. ☒ I do not know whether the defendant is in the military service. ☐ The defendant is not in the military service.
☐ The defendant is in the military service.

Signature

Subscribed and sworn to before me on 4-17-14, _____ County, Michigan.

My commission expires:

Date

Signature:

Deputy clerk/Notary public.

Notary public, State of Michigan, County of _____

The defendant(s) must be served by 7-17-14.

Expiration date

Original - Court
1st copy - Plaintiff
2nd copy - Defendant

Approved, SCAO

STATE OF MICHIGAN 53rd JUDICIAL DISTRICT	DEMAND AND ORDER FOR REMOVAL Small Claims	CASE NO. 14-1612-5C
Court address 204 S. HIGHLANDER WAY, HOWELL, MI 48843		Court telephone no. 517/540-7648

Plaintiff's name, address, and telephone no.

MARC S MALEC
6120 Mountain Laurel DR
Brighton, MI 48116
517-202-9285

v

☐ Personal service

Defendant's name, address, and telephone no.

merchants and medical
6324 Taylor DR
Flint Township, MI 48507
810-239-3030

☐ Personal service

2014 MAY 1 PM 2 00
53RD DISTRICT COURT

This demand is made by ☒ plaintiff. ☐ plaintiff's attorney. ☐ defendant. ☐ defendant's attorney.

DEMAND

I demand that this case be removed from the small claims division to the general civil division of the court.

5-1-2014
Date

MARC S MALEC
Signature of party demanding removal

MARC S MALEC
Name (type or print)

6120 Mountain Laurel DR
Address

Brighton, MI 48116
City, state, zip

517-202-9285
Telephone no.

If plaintiff or defendant is a corporation, limited liability company or partnership, they must have an attorney.

ORDER

IT IS ORDERED: This case is removed to the general civil division of the court for further proceedings. The defendant shall file a written answer and serve it within 14 days from the date of this order as provided in court rule.

5/5/14
Date

Theresa M Brennan
Judge/Attorney magistrate Bar no.

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this demand and order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 2.107(C)(3).

5-6-14
Date

[Signature]
Court clerk